

Message Text

UNCLASSIFIED

PAGE 01 STUTTG 01274 211435Z

46

ACTION SCSE-00

INFO OCT-01 SCA-01 ISO-00 L-03 /005 W
----- 109805

P 211300Z NOV 75

FM AMCONSUL STUTTGART

TO SECSTATE WASHDC PRIORITY 2692

INFO AMEMBASSY BONN PRIORITY

UNCLAS STUTTGART 1274

DEPARTMENT FOR SCS

E.O. 11652: N/A

TAGS: CGEN (MEMOREX VS. IBM) GW

SUBJ: DEPOSITION IN LITIGATION

REF: STATE 271879

ATTORNEYS FOR BOTH SIDES HAVE DECIDED UNDER CIRCUMSTANCES NOT TO PURSUE COMMISSION ISSUED BY THE HONORABLE RAY MCNICHOLS, JUDGE OF FEDERAL DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA, SENT TO CONSULATE GENERAL, STUTTGART AND RECEIVED NOVEMBER 18. BASED UPON ADVICE FROM FEDERAL REPUBLIC OF GERMANY LEGAL EXPERTS AND THEIR LOCAL COUNSEL, ATTORNEYS MOODY AND LYNCH ENTERED INTO FOLLOWING STIPULATION NOVEMBER 20:

"IT IS UNDERSTOOD AND STIPULATED BY AND BETWEEN THE PARTIES HERETO THAT ON A VOLUNTARY BASIS THE DEFENDANT IS WILLING TO PERMIT REPRESENTATIVES OF THE PLAINTIFFS TO OBTAIN STATEMENTS FROM OFFICERS OR EMPLOYEES OF IBM DEUTSCHLAND GMBH FOR USE IN UNITED STATES LITIGATION AND TO HAVE INSIGHT INTO DOCUMENTS MAINTAINED BY IBM.

THUS THE IBM DEUTSCHLAND GMBH IS COOPERATING IN GIVING SUCH STATEMENTS AND ALLOWING SUCH REVIEW OF DOCUMENTS ON A VOLUNTARY BASIS, AND IS NOT OPERATING UNDER ANY LEGAL REQUIREMENT IMPOSED ON IT WITH EFFECT WITHIN THE FEDERAL REPUBLIC OF GERMANY BY UNITED STATES LAW OR ACTION OF A UNITED STATES JUDGE OR COURT.

HENCE NEITHER THE OFFICIALS OF THE FEDERAL REPUBLIC OF GERMANY, NOR
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UNITED STATES CONSULAR OFFICIALS NEED TO BE OFFICIALLY INVOLVED. NO

OFFICIAL OF THE UNITED STATES IN THE EXECUTIVE OR JUDICIAL BRANCH WAS OR IS INVOLVED IN THE OBTAINING OF STATEMENTS OR INSPECTION OF DOCUMENTS.

THE FOREGOING IS WITHOUT PREJUDICE, OF COURSE, TO FUTURE ACTIONS DEEMED NECESSARY BY THE PARTIES TO THIS PROCEDURES."

HENCE THEY STATE THAT THEY DO NOT NEED LEGAL ASSISTANCE AND THAT FRG ADVISES NO CONSENT NEEDED UNDER SUCH CIRCUMSTANCES. THEY STATE THAT EXPERT EMPLOYEES OF IBM DEUTSCHLAND GMBH VOLUNTARILY PROVIDED UNSWORN INFORMATION UNDER RULE 29, FEDERAL RULES OF CIVIL PROCEDURE."

FOR DEPARTMENT:
WOULD APPRECIATE YOUR COMMUNICATING WITH ABOVE NAMED COURT SOONEST AND ASCERTAIN IF POSSIBLE WHETHER FOREGOING ACCEPTABLE PROCEDURE IN CONNECTION WITH RETURN OF JUDGE'S COMMISSION TO CONSUL GENERAL.
JENKINS

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NNN

Message Attributes

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Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
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From: STUTTGART
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